

REMARKS

Claims 31-35 and 37-38 are now pending in the application. Claim 36 has been canceled. Claims 31, 37 and 38 are independent, and independent Claim 31 has been amended.

Claims 31-38 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 29, 31 and 33-38 of US Patent 6,096,068. The accompanying terminal disclaimer renders this rejection moot.

Independent Claims 37 and 38 were *not* rejected based on prior art. Accordingly, since the only rejection of these claims, the obviousness-type double patenting rejection noted above, has been addressed, these claims are believed to be clearly in condition for allowance.

The objection to the Abstract has been addressed in the amendments to the Abstract above. Reconsideration and withdrawal of the objection are therefore respectfully requested.

Claims 31-33 and 35-36 were rejected under 35 USC 102(e) as being anticipated by US Patent 5,837,003 (Ginsburg) and Claim 34 was rejected under 35 USC 103(a) as being unpatentable over Ginsburg. In view of the foregoing amendments and the following discussion, each of these rejections is respectfully traversed and reconsideration is requested.

Independent Claim 31 is directed to a method for providing whole-body cooling of a patient, the method including the steps of providing a catheter with a conductive heat transfer element at a distal end thereof, the conductive metallic heat transfer element having a plurality of heat transfer segments, and wherein *a bellows is disposed between each of the plurality of heat transfer segments*, inserting the catheter and heat transfer element into the vascular system of the patient, utilizing the heat transfer element to modify the temperature of blood which flows in heat exchange proximity to the heat transfer element, such that the modification of the blood will accomplish whole body cooling of the patient.

The method and apparatus described in Ginsburg fails to teach or suggest a method in which a heat transfer element has a plurality of heat transfer segments and a bellows disposed between each of the segments. In its rejection of Claim 36, the Action directed Applicant to "vans 50 and col. 7, lines 1-12, of Ginsburg as providing a teaching of a heat transfer element comprising a plurality of heat transfer segments. Ginsburg does not teach or suggest that bellows are disposed between each of 'vans 50' shown in Figure 5.

For at least the foregoing reason, independent Claim 31, as amended herein, is believed patentable over Ginsburg and reconsideration is requested.

Dependent Claims 32-35 are believed to be clearly patentable for all of the reasons indicated above with respect to Claim 31, from which they depend, and even further define over Ginsburg by reciting additional distinguishing limitations.

Should the Examiner be of the view that an interview would expedite consideration of this Amendment or of the application at large, request is made that the Examiner telephone the Applicant's attorney at (908) 518-7700 in order that any outstanding issues be resolved. If there are any fees due and owing in respect to this amendment, the Examiner is authorized to charge such fees to deposit account number 50-1047.

Respectfully submitted,



Karin L. Williams
Registration No. 36,721

Attorney for Applicants
Mayer Fortkort & Williams PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090